

Editor's Note: The following is a write-up from a worker legal training session held by one of ILRF's partners. It has been translated from Chinese and edited slightly. Some regulations cited in the training may spring from local regulations and therefore do not necessarily apply to all of China.

SEPTEMBER TRAINING SESSION: WAGES

Timely Payment of Wages

The workers that participated in this training were mostly employees of a nearby hotel. With the National Day vacation approaching, we discussed how if employers deduct or put off paying wages, the total amount owed should be paid back to workers, including arrears and compensation.

According to the law, in cases of natural disaster, war or other uncontrollable circumstances, companies that experience financial difficulties can temporarily delay paying their workers' wages with the approval of their trade union. However, in all other situations, any arrears are considered "default without reason" (无故拖欠 or *wugu tuo'er*).

If a work unit does not pay overtime in accordance with the Labor Law, it must not only pay back what it owes workers within a set time, but must also pay an extra 25 percent of the wages as compensation. The worker can then further demand to end his or her labor relationship with the firm and receive severance pay.

Vacations, Weddings and Funerals

When employees are celebrating the New Year, go home to visit their families, or take leave for a wedding or a funeral, the employer should pay vacation wages at no less than the employees' normal pay rate.

During the New Year, the length of paid vacations should be determined according to workers' length of service to a company, with those having worked 1-5 years receiving 5 days of paid leave; 5-10 years, 7 days paid leave; 10-20 years, 10 days paid leave; and over 20 years, 14 days paid leave. For attending a marriage, workers should receive 5 days; a delayed marriage, 15 days; and a funeral, 5 days.

Ending a Job and Getting Paid

When the legal relationship between an employer and an employee ends, companies using a monthly salary system should pay in full the wages that they owe the employee within 3 work days from when the relationship ended. Companies using a yearly or weekly salary system can pay at a previously set date.

Sick Leave and Wages

In the event that an employee falls sick or must seek medical attention for a non-work-related injury... the employer should pay the worker no less than 60% of his usual wages during sick leave; however, this amount must not be lower than 80% of the minimum wage.

Thoughts on the Training Session

Responses to this week's training were good. Because the hotel that is employing many of the trainees is already two months behind in paying its employees, the trainees hope the next training session will go into more depth on the Labor Contract Law.

Practice Examples

The following are some examples used in the training:

Example 1

An employer and an employee set April 7 as the date for paying an employee his March wages and April 30 for paying his seasonal bonus. If the employee resigns on March 20, his March 1-20 regular wages must be paid by March 22 (i.e. by the end of the day on March 22, assuming March 20-22 are weekdays), but the bonus can be paid on April 30 as originally planned.

Example 2

A certain corporation stipulates that its workers will receive 60 percent of their normal wage when on sick leave. However, employee Wang's normal wage is exactly the minimum wage. Therefore, the company must pay Wang 80 percent of his normal wage, not 60 percent.